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Plaintiff *pro se*

**ELECTRONICALLY
FILED**
*Superior Court of California,
County of San Francisco*

05/22/2024
Clerk of the Court
BY: AUSTIN LAM
Deputy Clerk

CGC-24-614914

Alexander Xue,
Plaintiff,
vs.
RAINBOW DESSERT BAR LLC
Defendant.

) Case Number: _____
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VERIFIED COMPLAINT
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1. Violation of B.P.C. §§17200 et seq.
2. Violation of B.P.C. §§17500 et seq.
3. Violation of Civ. Code §§1750 et seq.
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JURY TRIAL DEMANDED
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BACKGROUND AND SUMMARY

Defendant secretly adds a deceptively named 6% taxable “SF Mandate” charge to all its transactions. This practice is prohibited by California law.

JURISDICTION

1. This Court has jurisdiction over this matter as the Defendant does business in San Francisco County.

PARTIES

2. Plaintiff Alexander Xue is a competent adult.
 3. Defendant Rainbow Dessert Bar owns and operates U Dessert Story, a dessert restaurant located at 3489 16th St, San Francisco, CA 94114.

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STATEMENT OF FACTS

4. Defendant is engaged in the business of selling food and drink to the general public.

5. Plaintiff visited Defendant's restaurant on 11 January 2023 and paid his bill, which totalled \$24.00.

6. Plaintiff reviewed his receipt and was surprised to find a 6% charge that was secretly added to his bill. This charge was called “SF Mandate”.

7. Defendant did not disclose this charge to Plaintiff at any point prior to Plaintiff ordering food. Defendant does not disclose this charge on its menu.

8. Even if Defendant disclosed this charge to Plaintiff and other consumers prior to a purchase being made, Defendant is still misrepresenting the nature of the charge.

9. The name of this charge, “SF Mandate”, led Plaintiff and would lead any reasonable person to believe that it was a governmental requirement for employers to charge this fee onto customer bills. Defendant uses the letters “SF” to represent the City and/or County of San Francisco, and uses the word “Mandate” to convey the plain meaning of the word: “an authoritative command”. (See: Merriam-Webster dictionary).

10. This charge is *not* imposed by any government agency, and is a charge that Defendant adds to customer bills for the sole purpose of increasing its gross profit margin.

11. Plaintiff was deceived into making a purchase with Defendant, because he expected to pay the prices displayed on the menu that was presented to him and his guest, and did not expect any misleading and/or hidden charges to be added to his final bill.

12. Plaintiff would not have purchased items from Defendant if he had been aware of the hidden 5% “SF Employer Mandate” charge, or if he was aware that Defendant was attempting to pass off hidden merchant charges as governmentally mandated.

FIRST CAUSE OF ACTION

VIOLATION OF THE UNFAIR COMPETITION LAW

(CALIFORNIA BUSINESS AND PROFESSIONS CODE §§17200 ET SEQ.)

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13. Plaintiff incorporates, by reference, all other allegations and facts herein stated.

14. California Business and Professions Code §§17200 et seq. prohibits any “unlawful, unfair, or fraudulent business act or practice”.

15. Defendant has engaged prohibited acts by:

- a. Failing to disclose a mandatory merchant-imposed surcharge affecting the effective prices of its products.
 - b. Advertising certain prices with the intent not to sell those items at the prices so advertised.
 - c. Deceptively inducing customer purchases by displaying a menu that does not include nor disclose all mandatory merchant-imposed surcharges, causing any reasonable member of the public to assume that Defendant’s products were cheaper than they actually were.
 - d. Harming competitors by causing any reasonable member of the public to believe Defendant’s prices were cheaper than they actually were.
 - e. Falsely advertising its merchant-imposed surcharge as a “SF Mandate”, causing any reasonable member of the public to believe the government of San Francisco mandates the Defendant to add this surcharge to customer bills, when in fact, no such mandate exists.

16. Plaintiff was damaged by Defendant's unlawful, unfair, and fraudulent business acts or practices and is entitled by law to relief.

SECOND CAUSE OF ACTION

VIOLATION OF FALSE ADVERTISING LAW

(CALIFORNIA BUSINESS AND PROFESSIONS CODE §§17500 ET SEQ.)

17. Plaintiff incorporates, by reference, all other allegations and facts herein stated.

18. California Business and Professions Code §§17500 et seq. prohibits anyone from falsely advertising their products.

19. Defendant has engaged in prohibited acts by:

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- a. Failing to disclose a mandatory merchant-imposed surcharge affecting the effective prices of its products.
 - b. Advertising certain prices with the intent not to sell those items at the prices so advertised.
 - c. Deceptively inducing customer purchases by displaying a menu that does not include nor disclose all mandatory merchant-imposed surcharges, causing any reasonable member of the public to assume that Defendant's products were cheaper than they actually were.
 - d. Harming competitors by causing any reasonable member of the public to believe Defendant's prices were cheaper than they actually were.
 - e. Falsely advertising its merchant-imposed surcharge as a "SF Mandate", causing any reasonable member of the public to believe the government of San Francisco mandates the Defendant to add this surcharge to customer bills, when in fact, no such mandate exists.

THIRD CAUSE OF ACTION

VIOLET OF CONSUMER LEGAL REMEDIES ACT

(CALIFORNIA CIVIL CODE §§1750 ET SEQ.)

21. Plaintiff incorporates, by reference, all other allegations and facts herein stated.
 22. The Consumer Legal Remedies Act (“CLRA”) prohibits certain “unfair methods of competition and unfair or deceptive acts”. Cal. Civ. Code §1770(a).
 23. Defendant has violated the CLRA.
 24. By advertising goods and services with intent not to sell them as advertised, Defendant has violated the CLRA. Cal. Civ. Code §1770(a)(9).
 25. By representing that the “SF Mandate” charge was a governmental mandate, a statement that reasonably confers an obligation on the Defendant to remit the proceeds of this fee to a

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1 governmental authority for the benefit of the public that it does not have (as the “SF Mandate”
2 fee was not actually a San Francisco mandate), Defendant has violated the CLRA. Cal. Civ.
3 Code §1770(a)(14).

4 26. Any consumer who suffers any damage as a result of the use by any person of any
5 practice declared to be unlawful by §1770 may bring an action against that person to recover or
6 obtain any of the following: “Actual damages”, “An order enjoining the methods, acts, or
7 practices”, “Punitive damages”, and “Any other relief that the court deems proper”. Cal. Civ.
8 Code §1780(a).

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10 **REQUEST FOR RELIEF**

11 27. Plaintiff demands actual damages in an amount according to proof.

12 28. Plaintiff demands punitive damages.

13 29. Plaintiff demands injunctive relief enjoining the Defendant from continuing to act in
14 any way contrary to law, including (1) from continuing to charge any merchant-imposed fee or
15 surcharge that is not first properly disclosed to the customer, and (2) from representing such a
16 merchant-imposed fee or surcharge as a “mandate” or using names of governmental entities
17 like “SF” to mislead consumers.

18 30. Plaintiff demands an order mandating that Defendant refund all customers who were
19 deceptively induced into paying its hidden “SF Mandate” fee.

20 31. Plaintiff demands the costs of suit, including the filing fee and fees for service of
21 process.

22 32. Lastly, any other relief that this Court in its discretion deems just and appropriate.

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2 Date: 22 May 2024

Signed: 

3 Print Name: ALEXANDER XUE

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VERIFICATION OF COMPLAINT

33. I, ALEXANDER XUE, Plaintiff in this matter, declare as follows:

34. I have personal knowledge of all allegations set out in the foregoing Verified Complaint, and if called on to testify I would testify as to the matters stated herein.

35. I verify under penalty of perjury under the laws of the United States of America that the factual statements in this *Verified Complaint* concerning myself, my activities, and my intentions are true and correct to the best of my knowledge.

Date: 22 May 2024

Signed:

Print Name: ALEXANDER XUE

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